

1 A Yes.

2 Q You see question 6-C, "Estimated date by which
3 construction is to be completed"?

4 A Yes.

5 Q And the response is, "See Exhibit 1." Is there
6 anywhere in Exhibit 1 where Raystay states the estimated date
7 by which construction is to be completed?

8 A Yes.

9 Q Can you direct me to that, please?

10 A On page 4, I believe the last paragraph speaks to
11 that.

12 Q Am I to understand from that last paragraph that
13 Raystay estimated that construction would be completed by the
14 summer of 1992?

15 MR. SCHAUBLE: Objection. We're dealing with --

16 BY MR. SCHONMAN:

17 Q I'm sorry. By the end of 1992?

18 A (No audible response.)

19 Q Mr. Gardner, let me start over. Am I to understand
20 from the last paragraph that Raystay estimated the
21 construction would be completed by January 1993?

22 A This is the first set of extensions or the second?
23 Second.

24 Q No, this is the second.

25 A Okay. Yes.

1 Q Why did Raystay think that construction would be
2 completed by January 1993?

3 A As soon as George Gardner would make a decision to
4 go ahead and begin construction, construction could occur
5 fairly rapidly.

6 Q Well, at the time the second round of extensions
7 were filed, did Raystay have any concrete plans in place for
8 constructing the stations and putting them on the air?

9 MR. SCHAUBLE: Objection to the term concrete plans.

10 JUDGE CHACHKIN: Overruled.

11 MR. GARDNER: You mean -- okay, concrete plans. You
12 mean specific plans?

13 BY MR. SCHONMAN:

14 Q Yes.

15 A Not at that time, no.

16 JUDGE CHACHKIN: Had any decision been made at that
17 time to complete construction within six months by January
18 1993 -- two -- January 1993, I should say? Had a decision
19 been made at that time?

20 MR. GARDNER: I was not aware that a decision had
21 been made.

22 BY MR. SCHONMAN:

23 Q Between January and July 1992, what efforts did
24 Raystay make to sell the construction permits for Lebanon and
25 Lancaster?

- 1 A I'm sorry, I didn't get the dates.
- 2 Q Between January and July 1992.
- 3 A This is for Lancaster and Lebanon?
- 4 Q Correct.
- 5 A I'm aware only of the letter that I wrote regarding
- 6 the request for more information from a company in Florida
- 7 that said they were interested in unbuilt construction
- 8 permits.
- 9 Q The letter that you're referring to, is that Trinity
- 10 Exhibit 248?
- 11 A Yes.
- 12 Q Why did you write this letter dated June 12, 1992?
- 13 A I saw a -- it was either an advertisement or a -- an
- 14 article about this company that indicated that they were
- 15 requesting information on unbuilt construction permits and so
- 16 I sent them a letter.
- 17 Q Did you do this on your own or did someone ask you
- 18 to write this letter?
- 19 A I did this on my own.
- 20 Q And in June 1992 is it true as the second paragraph
- 21 states that Raystay was interested in the possibility of
- 22 selling the construction permits?
- 23 A Yes.
- 24 Q How did you know that?
- 25 A I had received that communication that I now know is

1 | dated December 3rd, 1991, from George Gardner indicating that
2 | it was okay to work with anyone else on the transfer of the
3 | construction permits.

4 | Q Now, if the construction permits expired, Raystay
5 | would have nothing to sell. Isn't that correct?

6 | A Yes.

7 | Q Turn back to Trinity Exhibit 251, the second round
8 | of extension applications, page 2.

9 | A Yes.

10 | Q Question 7-A, "If application is for an extension of
11 | construction permits, submit as exhibit number," and the
12 | number one is typed in, "the reason or reasons why
13 | construction has not been completed." Do you see that?

14 | A Yes.

15 | Q In July 1992, why had construction not been
16 | completed of any of the four low-power stations in Lebanon and
17 | Lancaster?

18 | A Because the equipment had not been ordered or
19 | delivered, and the programming that would make the stations
20 | profitable had not been decided upon.

21 | Q Is that it, Mr. Gardner?

22 | A Yes.

23 | Q Why had equipment not been ordered?

24 | A George Gardner had not placed an order.

25 | Q Why hadn't Raystay obtained programming for any of

1 the four low-power stations?

2 A Raystay was unable to find programming that had --
3 that would -- that Raystay could determine or decide had some
4 chance of being profitable on the, on the LPTVs.

5 Q Do you know why George Gardner had not ordered
6 equipment for any of the low-power stations in July 1992?

7 A I believe it's because he had not approved a
8 business plan yet.

9 Q Well, not only had he not approved one, but one had
10 not even been created. Isn't that true?

11 MR. SCHAUBLE: Objection. No -- objection, no
12 foundation for --

13 JUDGE CHACHKIN: What's the foundation?

14 BY MR. SCHONMAN:

15 Q I'll ask the question -- had a business plan been
16 created in July 1992?

17 A Yes.

18 Q Which business plan is that?

19 A The one that Hal Etsell created.

20 Q That, that's the one in February 1991?

21 A Yes.

22 Q Was that still being considered by, by your father
23 in July 1992?

24 A I believe that was one of, I believe that was one of
25 the ones that he was certainly considering, yes.

1 Q What other business plans was he considering in July
2 1992?

3 A I don't believe there were any other -- excuse me.
4 I was not aware of any other written business plans in July of
5 1992.

6 Q You weren't even aware of the February 1991 business
7 plan in July 1992 were you?

8 A I was not aware that he had been reduced to writing.

9 Q When you business plan, what do you mean?

10 A A, a -- you know, how do you define a plan without
11 using the word plan? A list of steps to take that will begin
12 with the process of making a statement about your intentions
13 and then listing strategies for achieving those goals and
14 assigning a timetable or responsibility for achieving those
15 goals.

16 Q Does a business plan start out as an idea or a
17 concept and evolved into a business plan?

18 MR. SCHAUBLE: Objection. Relevance, Your Honor.
19 Where are we going?

20 JUDGE CHACHKIN: What's the relevance?

21 MR. SCHONMAN: I'm trying to find out what
22 Mr. Gardner's frame of mind was. He's been using the term
23 business plan not being reduced to writing.

24 JUDGE CHACHKIN: Well, he described what, what he
25 means by a business plan.

1 MR. SCHONMAN: I'll strike the question. Thank you.
2 Your Honor, can we go off the record for a moment, please?

3 JUDGE CHACHKIN: All right. We'll go off the
4 record.

5 (Whereupon, off the record.)

6 (Whereupon, on the record.)

7 JUDGE CHACHKIN: On the record.

8 BY MR. SCHONMAN:

9 Q Mr. Gardner, with respect to this second round of
10 extension applications, Mr. Schauble sent you a draft of each
11 of the applications. Is that correct?

12 A I don't recall receiving a draft of each of the
13 applications, no.

14 Q Well, I'm trying to find out essentially the chain
15 of command here, who reviewed what and how the second round of
16 extension applications came to be signed by your father. Can
17 you lead me through the process?

18 A John Schauble sent me a clean copy of Exhibit 1 and
19 I reviewed it and we had a phone conversation in which it was
20 decided that no changes to Exhibit 1 would be offered.

21 Q We meaning you and Mr. Schauble?

22 A John Schauble and I. And then I believe I received
23 clean copies, typewritten copies of the, the FCC 307 form
24 along with an Exhibit 1 for each form which then reviewed and
25 --

1 Q So, at that point you had four sets --

2 A Yes.

3 Q -- of completed -- complete applications?

4 A Yes.

5 Q Okay. Go on.

6 A And which I reviewed and apparently took to George
7 Gardner for his review and signature because Lee Sandifer was
8 on vacation at that time.

9 Q You personally handed them to your father?

10 A I don't recall if I personally handed them to him or
11 not, but I made him aware that they were coming to him without
12 being reviewed by Lee Sandifer because he was not there at the
13 time.

14 Q Beyond informing your father that the applications
15 were coming to him directly from you, did you have any
16 discussions with your father about the four applications?

17 A I don't recall if I had any discussions with George
18 Gardner concerning the applications or not.

19 Q All you can recall then is that you handed the
20 applications -- well, you're not sure you handed -- strike
21 that. All you can recall is that you passed the four
22 applications on for his review and signature?

23 A That's what I recall.

24 Q Did you attach a handwritten or a typewritten note
25 along with them?

1 A We did not find a handwritten or typewritten note in
2 the file along with these I don't believe, so it would appear
3 that there was no note.

4 Q Then what happened to the applications?

5 A The applications would have come back to me for --
6 and I would send them to Cohen & Berfield and they would file
7 them with the Commission.

8 Q Did your father ask any questions of you about the
9 content of the applications?

10 A I don't recall if George Gardner asked me any
11 questions about the content of the applications or not.

12 Q Did your father ask you any questions about anything
13 having to do with the four applications?

14 A I don't recall if George Gardner asked me any
15 questions about anything to do with the four applications or
16 not.

17 Q Did your father hand the signed applications to you
18 or did he transmit them to you somehow?

19 A I don't recall if George Gardner handed me the
20 applications or transmitted them to me somehow.

21 Q Do you know how soon after you transmitted the
22 unsigned applications to your father that you received the
23 signed applications back from him?

24 A It would appear from the dates on these exhibits
25 that it was a very short time, possibly a few days, seven

1 days, that -- or less that he returned the applications to me
2 after I submitted them to him.

3 Q Did anyone else in Raystay ask you any questions
4 about the content of the four applications after you had
5 submitted them to your father for his signature?

6 A I don't believe anyone else asked me any questions
7 about the content of the applications after I submitted to
8 George Gardner.

9 MR. SCHONMAN: I have no further questions, Your
10 Honor.

11 JUDGE CHACHKIN: All right. Is there any redirect?

12 MR. SCHAUBLE: Just a little bit, Your Honor.

13 JUDGE CHACHKIN: Go ahead.

14 BY MR. SCHAUBLE:

15 Q Mr. Gardner, on Wednesday you gave testimony
16 concerning preparation -- concerning how you prepared for your
17 testimony here. Did you have a meeting with myself in
18 December 1993 to help you prepare for your testimony?

19 A Yes, I did.

20 Q Who else participated in that meeting?

21 A George Gardner and Lee Sandifer.

22 Q Was there a reason you did not mention that, that
23 meeting in your earlier testimony?

24 A I did not recall that meeting in December.

25 Q Okay.

1 JUDGE CHACHKIN: This was a meeting where you all
2 were together at the same time with Mr. Schauble?

3 MR. GARDNER: Yes. For a short period of time
4 people -- as I recall now, people kept going in and out.
5 George Gardner would leave and come back, Lee Sandifer would
6 leave and come back.

7 JUDGE CHACHKIN: So, nobody was there throughout
8 the --

9 MR. GARDNER: John Schauble was, yes.

10 JUDGE CHACHKIN: I mean besides John Schauble, when
11 you were being questioned were all the other individuals there
12 throughout the time that you were being questioned or just --
13 or what?

14 MR. GARDNER: John Schauble and I were there at the
15 time I was being questioned and for a period of time George
16 Gardner and Lee Sandifer were there, but they all -- you know,
17 they would leave and go do other things and then come back, so
18 they were not there the entire time I was being questioned.

19 JUDGE CHACHKIN: But they were there for a portion
20 of the time you were being questioned?

21 MR. GARDNER: Yes, sir.

22 JUDGE CHACHKIN: Do you remember them volunteering
23 any information at the time you were being questioned?

24 MR. GARDNER: I remember each of them making
25 statements during the time that I was being questioned, but to

1 the -- not to a great extent. They let John Schauble do the
2 talking for the most part.

3 JUDGE CHACHKIN: Do you recall anything -- what if
4 anything they said?

5 MR. GARDNER: I generally recall discussions about
6 George Gardner's, George Gardner's feelings -- his
7 understanding of how he felt about the low-power construction
8 permits as to whether or not he wanted to build them or he
9 wanted to sell them during the time that Raystay had the, the
10 low-power construction permits.

11 JUDGE CHACHKIN: Go ahead, Mr. Schauble.

12 BY MR. SCHAUBLE:

13 Q Mr. Gardner, to your knowledge are you the only
14 person who interacts with FCC counsel on behalf of Raystay?

15 A No, I'm not.

16 JUDGE CHACHKIN: You mean at any particular or, or
17 what time?

18 BY MR. SCHAUBLE:

19 Q Or well, let's take it during the period 1991 and
20 1992.

21 A Other persons, other persons at Raystay work with
22 FCC counsel.

23 Q During 1991 and 1992 to your knowledge who are the
24 other people who interacted with FCC counsel on behalf of
25 Raystay?

1 A George Gardner, Hal Etsell, possibly Lee Sandifer.

2 Q Now, the time frame for my next series of questions
3 is 1991. You testified concerning discussions you had with
4 Trinity Broadcasting concerning the LPTV construction permits.
5 In 1991 did you have discussions with Trinity concerning other
6 matters?

7 A Yes.

8 Q And what other matters were those?

9 A Carriage of Trinity Broadcasting Service on
10 Raystay's and Raystay-managed cable systems.

11 Q Mr. Gardner, if I could please direct your attention
12 to TBF Exhibit 234 which are the asset purchase agreements for
13 the Lancaster and Lebanon construction permits.

14 A Okay. Yes.

15 MR. EMMONS: Your Honor -- counsel, give me that
16 reference again?

17 MR. SCHAUBLE: 234.

18 MR. EMMONS: 254? Oh, thank you.

19 BY MR. SCHAUBLE:

20 Q And my question to you, Mr. Gardner is, did anybody
21 at Raystay ever inform you that any of these asset purchase
22 agreements would be signed?

23 A No.

24 Q To your knowledge was any decision ever made by
25 Raystay to sell the Lancaster or Lebanon construction permits?

1 A No.

2 Q Did Raystay ever have any understanding or agreement
3 to sell the Lancaster or Lebanon LPTV construction permits?

4 A Not to my knowledge, no.

5 MR. SCHAUBLE: Your Honor, I need to inquire of you
6 what is Glendale's next exhibit number?

7 JUDGE CHACHKIN: I believe it's 221.

8 MR. SCHAUBLE: Thank you, Your Honor. Your Honor,
9 at this time I'd like marked, marked for identification as
10 Glendale Broadcasting Company Exhibit 221, a three-page
11 document, with the date on the first page of October 5th, 1992
12 and containing what I believe to be on the third page the
13 signature of David A. Gardner.

14 JUDGE CHACHKIN: The document described is marked
15 for identification as Glendale Exhibit 221.

16 (Whereupon, the document referred to
17 as Glendale Exhibit No. 221 was
18 marked for identification.)

19 BY MR. SCHAUBLE:

20 Q And I would ask the witness to take a moment to
21 review the document.

22 A Yes.

23 Q Have you had an opportunity to review the document?

24 A Yes.

25 Q Turning to the third page of the document, is that

1 your signature?

2 A Yes.

3 Q Did you write this on or about October 5th, 1992? I
4 would direct your attention to the first page of the --

5 A Yeah, that -- the date looks like my handwriting.
6 Yes.

7 Q Now, take a moment to review the writing beginning
8 on the second page and going on to the third page.

9 A Yes.

10 Q Why did you write, why did you write this portion of
11 this note on October 5th, 1992?

12 A It was addressed to either Lee Sandifer or George
13 Gardner, or to both of them.

14 Q I'm sorry. My question is why did you write --

15 A I was trying to find -- or I was trying to provide a
16 possible alternative to the business plans that they were
17 exploring in order to find a way to put the four LPTVs on the
18 air.

19 MR. SCHAUBLE: Your Honor, at this time I move
20 Glendale Broadcasting Company Exhibit 221 into evidence.

21 JUDGE CHACHKIN: Any objection?

22 MR. EMMONS: I think I'm going to object on
23 relevance, Your Honor, given the date of this. This was after
24 the second extension application was filed.

25 MR. SCHAUBLE: Your Honor, I think there have been

1 questions raised about what Raystay's intentions were with
2 respect to these construction permits and that this, this note
3 is relevant not only to the intentions at the time the note
4 was written, but also could lead to some evidence concerning
5 what the intentions and state of mind was prior to, prior to
6 this period.

7 JUDGE CHACHKIN: What's the Bureau's position?

8 MR. SCHONMAN: Your Honor, this clearly comes after
9 the second round of extension applications were filed.

10 JUDGE CHACHKIN: And before the expiration of the
11 second extension request.

12 MR. SCHAUBLE: And I'd also point out, Your Honor,
13 that there was considerable questioning by both Trinity --
14 that there was questioning particularly by Trinity as to
15 events that took place after the grant of the second extension
16 application.

17 JUDGE CHACHKIN: I'm going to receive Glendale
18 Exhibit 221. I believe there was questioning about what took
19 place after the second extension request was filed and prior
20 to the expiration so in light of that I'm going to receive
21 Glendale Exhibit 221.

22 (Whereupon, the document referred to
23 as Glendale Exhibit No. 221 was
24 received into evidence.)

25 MR. SCHAUBLE: And Your Honor, with that I have no

1 further questions.

2 JUDGE CHACHKIN: Any further questions of this
3 witness?

4 MR. EMMONS: Just a couple on -- based on the
5 redirect, Your Honor.

6 JUDGE CHACHKIN: That's what I meant.

7 BY MR. EMMONS:

8 Q Mr. Gardner, you've testified that in December you
9 met with Mr. Schauble in the presence at least at times with
10 George Gardner and Lee Sandifer in preparation for this
11 hearing. And you testified that in response I think to the
12 Judge's questions that Mr. George Gardner and Mr. Sandifer
13 were present for at least part of the time where you were
14 being questioned by Mr. Schauble. And my question is, were
15 you present during questioning by Mr. Schauble of either
16 George Gardner or Lee Sandifer at that meeting?

17 A There was a short period of time when there was
18 general discussion and questioning by John Schauble of which
19 George Gardner and Lee Sandifer made some answers. However,
20 during the period of time that there was lengthy questioning
21 by either George Gardner or Lee Sandifer by John Schauble, I
22 was not present for, for most of that time.

23 Q You were there for part of it?

24 A I recall being in the room when both George Gardner
25 and Lee Sandifer were asked some questions by John Schauble,

1 yes.

2 Q You testified in response to Mr. Schauble that you
3 were not the only person who interacts with FCC counsel on
4 behalf of Raystay, and you testified that others who did were
5 George Gardner and Mr. Etsell and possibly Mr. Sandifer. And
6 my question is, do you know whether George Gardner or Mr.
7 Etsell or Mr. Sandifer, any one of them, had any communication
8 with FCC counsel about either one of the two sets of extension
9 applications that we've been talking about in this hearing?

10 A I do not know whether or not George Gardner, Lee
11 Sandifer or Hal, Hal, Hal Etsell, Harold Etsell, had any
12 discussions with FCC counsel about the two sets of LPTV
13 extension applications that we've discussed at these
14 proceedings.

15 Q You testified in response to Mr. Schauble that to
16 your knowledge no decision was ever made by Raystay to sell
17 the Lancaster or the Lebanon construction permits. And my
18 question to you is, do you mean by that answer to say that you
19 have no knowledge that Raystay ever made any effort to sell
20 them?

21 A No.

22 Q You do not mean that?

23 A I do not mean that.

24 Q You simply meant that no decision -- so far as you
25 knew, no decision had been made in response to any specific

1 negotiation or discussion to actually make a sale?

2 A No agreement had been reached, that's correct.

3 MR. EMMONS: That's all I have, Your Honor.

4 JUDGE CHACHKIN: Bureau have anything?

5 MR. SCHONMAN: Yes, I have some questions on the
6 newest Glendale, 221.

7 MR. SCHAUBLE: 221.

8 BY MR. SCHONMAN:

9 Q You are unsure who this handwritten note was
10 directed to? Is that your testimony?

11 A Yes.

12 Q It was either Lee Sandifer or your father?

13 A Either Lee Sandifer or George Gardner or possibly
14 both of them.

15 Q Did one or the other or both request you to write
16 this?

17 A No.

18 Q Why did you write it?

19 A I was trying to encourage a decision to be made to
20 put the LPTVs on the air.

21 Q Would you characterize Glendale Exhibit 221 as a
22 business plan?

23 MR. SCHAUBLE: Objection. Relevance, Your Honor.
24 It's also beyond the scope of the redirect.

25 MR. SCHONMAN: Your Honor, Glendale just had this

1 received into evidence and I think I should be allowed --

2 JUDGE CHACHKIN: I'll overrule the objection.

3 MR. GARDNER: No.

4 BY MR. SCHONMAN:

5 Q How would you characterize this document?

6 A As a reminder or a first notice if it went to
7 someone who was not aware of my thoughts on possible uses of
8 the LPTVs about this possibly use of the LPTV construction
9 permits.

10 Q This was an idea that you had for using them?

11 A Yes.

12 Q I take it that the idea was not well received by
13 Mr. Gardner or Mr. Sandifer?

14 A I don't recall receiving a response so I don't know
15 whether it was well received, not well received or --

16 Q You don't recall receiving any response at all to
17 it?

18 A I don't recall receiving a positive response to go
19 ahead and build the LPTV construction permits.

20 Q Do you recall receiving any response whatsoever
21 whether in the form of a question or a statement --

22 A No, no, I don't recall receiving any response.

23 Q Do you remember handing this to anyone or mailing it
24 to anyone or somehow transmitting to, to anyone?

25 A I don't recall specifically handing this to anyone

1 or mailing it to anyone or transmitting it to anyone, no.

2 Q So, what is your basis for saying that he might have
3 sent it to your father or to Mr. Sandifer?

4 A I recall writing this note and I recall that it was
5 intended to be received by George Gardner.

6 Q But you have no knowledge that it was, you have no
7 knowledge that it was sent to him directly or indirectly or
8 that he ever received it? Is that correct?

9 A What I'm saying is I don't recall how I transmitted
10 it to him, whether it was through Lee Sandifer or directly to
11 him.

12 Q Well, what is it you recall about it? Do you recall
13 sending it to anyone?

14 A I don't recall the physical act of sending it to
15 anyone, no.

16 MR. SCHONMAN: That's it, Your Honor, no questions.

17 JUDGE CHACHKIN: Now, was this document prepared in
18 the manner indicated in this exhibit? Namely, that there was
19 nothing on the top part of this page, if you recall?

20 MR. SCHAUBLE: Your Honor?

21 JUDGE CHACHKIN: Yes?

22 MR. SCHAUBLE: The first part of this memorandum
23 dealt with a subject completely different from the LPTV
24 applications and --

25 JUDGE CHACHKIN: Well, that may be so, but was any

1 names on, on the memorandum? Was it an inter-office memo to,
2 to somebody or what? I mean, I don't care about the subject
3 matter, but was there some names on top of the memo?

4 MR. COHEN: Could we have a minute, Your Honor?

5 JUDGE CHACHKIN: Yes. We'll go off the record.

6 (Whereupon, off the record.)

7 (Whereupon, on the record.)

8 MR. SCHAUBLE: Your Honor, I -- Your Honor, I
9 believe Mr. Sandifer will be able to give testimony as to, as
10 to the identification of this document. I --

11 JUDGE CHACHKIN: But you, you put it in through this
12 witness. I assumed --

13 MR. SCHAUBLE: Yeah. I don't, I don't recall --

14 JUDGE CHACHKIN: Do you have the document which,
15 which you made a copy from in the room now?

16 MR. SCHAUBLE: I don't. I don't have it in the
17 room. I have -- I believe I have it --

18 MR. COHEN: Well, we'll bring it tomorrow morning if
19 it's in the office, Your Honor. You --

20 JUDGE CHACHKIN: Well, certainly should see if
21 there's someone's name it's directed to, it should be in the
22 record -- that portion should be in the record.

23 MR. COHEN: We will, we will do that and bring it to
24 the hearing room and report to you on that point tomorrow
25 morning --

1 JUDGE CHACHKIN: All right.

2 MR. COHEN: -- to make that representation if it's
3 in our office.

4 JUDGE CHACHKIN: Well, someone made a copy of this.

5 MR. COHEN: Well, that -- well, we have -- I don't
6 want to over-promise you.

7 JUDGE CHACHKIN: All right. All right.

8 MR. SCHONMAN: Your Honor?

9 JUDGE CHACHKIN: Yes?

10 MR. SCHONMAN: We've had some discussion here about,
11 about this document. We, we don't even know if this document
12 was in fact sent to anyone. It may have been just a memo
13 that, that the witness drafted and put in a drawer in a file.
14 I mean, given the testimony that we have had about this
15 document, I would move to have Glendale withdraw it at this
16 time and if they want to try to move it in through another
17 witness perhaps so. But I mean, this is just --

18 JUDGE CHACHKIN: Well, at least, at least to the
19 extent that it's this witness's recommendation. Whether he
20 delivered it to anybody else -- his view it may be relevant --
21 all the questions put to this witness. Whether or not it was,
22 it was delivered or transmitted to someone else, I agree with
23 you, it's not been established at this point.

24 MR. SCHAUBLE: Your Honor, obviously Mr. Sandifer
25 and Mr. George Gardner will be able to, able to testify on

1 that.

2 JUDGE CHACHKIN: They'll be able to testify whether
3 they received this memo or not, yeah.

4 MR. EMMONS: Well, that would be true if they were
5 asked, Your Honor, and I'm not saying they won't be asked but,
6 but --

7 JUDGE CHACHKIN: Well, in any event, tomorrow we're
8 going to be -- there's going to be an attempt made to, to find
9 this -- the original of this document and to see whether or
10 not there are any names listed on it to who this was
11 directed. I gather you can't shed any more light as to
12 whether or not this document was in some way transmitted to
13 either George Gardner or to Mr. Sandifer.

14 MR. GARDNER: You're asking me?

15 JUDGE CHACHKIN: Yes.

16 MR. GARDNER: My recollection is that it was.

17 JUDGE CHACHKIN: That you brought it to them or, or
18 did what?

19 MR. GARDNER: I transmitted it either -- most likely
20 I transmitted it through inter-office mail.

21 JUDGE CHACHKIN: And you say you transmitted it
22 individually to both Mr. Gardner and Mr. Sandifer or just to
23 Mr. Sandifer?

24 MR. GARDNER: I, I don't have a recollection on that
25 matter, Your Honor.

1 JUDGE CHACHKIN: All right. Any -- no further
2 questions of this witness? You're excused. Thank you.

3 MR. GARDNER: Thank you, sir.

4 MR. COHEN: 9 o'clock, Your Honor?

5 JUDGE CHACHKIN: Yes. We're in recess to tomorrow
6 morning at 9:00 a.m.

7 (Whereupon, hearing adjourned at 3:00 p.m.)

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